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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,930	11/16/2001	Kenneth E. Flick	16107N	5501

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EXAMINER	
SHIMIZU, MATSUICHIRO	
ART UNIT	**PAPER NUMBER**
2612	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/993,930	FLICK, KENNETH E.	
	Examiner	Art Unit	
	Matsuichiro Shimizu	2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-71* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9,11-21,23-34,46-56,58-68* is/are rejected.

7)☒ Claim(s) *10,22,35,45,57 and 69* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

The examiner withdraws claim objection 7-9,19-21,42-44,54-56 67-68 to the abstract in view of new prior art of Lavelle.

Terminal Disclaimer

The applicant filed terminal disclaimer on 3/13/06, and it was accepted and approved by the Office on 3/22/06.

MPEP *2114 [R-1] Apparatus and Article Claims — Functional Language*

MANNER OF OPERATING THE DEVICE DOES NOT DIFFERENTIATE APPARATUS CLAIM FROM THE PRIOR ART

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim.

Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) (The preamble of claim 1 recited that the apparatus was "for mixing flowing developer material" and the body of the claim recited "means for mixing ..., said mixing means being stationary and completely submerged in the developer material". The claim was rejected over a reference which taught all the structural limitations of the claim for the intended use of mixing flowing developer. However, the mixer was only partially submerged in the developer material. The Board held that the amount of submersion is immaterial to the structure of the mixer and thus the claim was properly rejected.).

The phrase "to thereby alert a user of a potentially unauthorized learned remote transmitter" cited in claims 1, 13, 24, 29, 34, 48 and 60 is intended to

be employed, and does not differentiate the claimed apparatus. Therefore, all the structural limitations of apparatus cited in claims 1, 13, 24, 29, 34, 48 and 60 are taught in prior arts.

Therefore, rejection of claims 1-9, 11-21, 23-34, 36-44, 46-56, 58-68 and 70-71 follows:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9, 12-21, 23-34, 36-44, 47-56, 59-68, and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heistschel et al. (RE. 35,364) in view of Lavelle et al. (5,815,084).

Regarding **claims 1, 13, 24, 29, 34, 48 and 60,** Heistschel discloses unique code of transmitter 26 (Fig. 1, col. 3, lines 41-59, unique code in transmitter 23) is transmitted while this code is received as switch is on program mode 19 and code receiving address in memory is switched to 4 (Fig. 2, switch 23). Upon completion of learning, switch 22 is immediately placed on operate mode to move the garage door (Fig. 1, col. 3, lines 41-59, moving garage door 17).

But Heistschel is silent on one indicator for indicating immediately whether a new uniquely coded remote transmitter has been learned.

However, Lavelle teaches, in the art of access door system, one indicator for indicating whether a new uniquely coded remote transmitter has been learned (col. 6, lines 14-23, LED notification) for the purpose providing notification to extend transmitter life time.

Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to have included in Heistschel the features of Lavelle just discussed above because LED notification feature prevents unnecessary transmitter operation, thus extending transmitter life time.

Regarding claims 2, 14, 25, 30, 38, 49 and 61, Heistschel teaches last increment position of switch 23 indicating number of learned remote transmitter while the switch 22 is in program mode (Fig. 2, switch in fourth leaned transmitter).

Regarding claims 3, 15, 39, 50 and 62, Lavelle teaches one indicator for indicating a change (col. 6, lines 14-23, adding or deleting key id 20 is analogous to changed number of authorized keys in the controller and is notified to the LED) in a number of learned remote transmitters.

Regarding claims 4, 16, 40, 51 and 63, Lavelle teaches one indicator (Lavelle-Fig. 11, col. 6, lines 14-23, LED notification for adding new code of the attached key 20 by depressing 3-4 key) for indicating a change in a unique code (Fig. 11, col. 6, lines

14-23, LED notification for adding new code of the attached key 20 by depressing 3-4 key) of learned remote transmitters.

Regarding **claims 5, 17, 26, 31, 36, 52 and 64**, Lavelle continues, as claimed in claim 1, to teach indicator comprises a light (col. 6, lines 14-23, LED notification).

Regarding **claims 6, 18, 27, 32, 41, 53 and 66**, Heistschel teaches a remote door switch 22 (Fig. 1, col. 3, lines 41-59, moving garage door 17) for switching said controller to the door moving mode.

Regarding **claims 7, 37, 42 and 54**, Lavelle continues, as claimed in claim 1, to teach a remote indicator switch (Fig. 11, col. 6, lines 14-23, LED notification for adding new code of the attached key 20 by depressing 3-4 key) for causing said controller to cooperate with said at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned.

Regarding **claims 8, 19-20, 43, 55 ,65 and 67**, Heistschel in view of Lavelle teaches a remote control system according to claim 1 further comprising: at least one light (Lavelle - Fig. 11, col. 6, lines 14-23, LED notification) connected to said controller and being energized when said controller is switched to the door moving mode (Heistschel- Fig. 1, col. 3, lines 41-59, moving garage door 17) ; and a remote light switch for also causing said at least one light to be energized, and for causing said controller to cooperate with said at least one indicator for indicating (Lavelle- Fig. 11, col. 6,

lines 14-23, LED notification) whether a new uniquely coded remote transmitter has been learned.

Regarding **claims 9, 21, 44, 56 and 68,** Lavelle teaches a learned transmitter indicator switch for causing said controller for indicating whether a new uniquely coded remote transmitter has been learned (Figs. 1 and 11, col. 6, lines 14-23, LED 24 notification on reader 12 for adding new code of the attached key 20 by depressing 3-4 key).

Regarding **claims 12, 23, 28, 33, 47, 59 and 71,** Heistschel teaches a remote control system according to claim 1 wherein the access door comprises a garage door (Fig. 1, col. 3, lines 41-59, moving garage door 17).

Claims 11,46, 58 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heistschel in view of Lavelle as applied to claim 1, 34, 48 and 60 above, and further in view of Soenen et al. (6,046,680).

Regarding **claims 11,46, 58 and 70,** Heistschel in view of Lavelle does not each the learned remote transmitter transmits a pseudo-randomly coded signal to said controller.

However, Soenen teaches, in the art access system, the learned remote transmitter transmits a pseudo-randomly coded signal to said controller (col. 12, lines 4-6, random code generator 36a) for the purpose of providing high level of security. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include the learned remote

transmitter transmits a pseudo-randomly coded signal to said controller in the claimed device of Heistschel in view of Lavelle because Heistschel in view of Lavelle suggests uniquely coded remote transmitter and Soenen teaches the learned remote transmitter transmits a pseudo-randomly coded signal to said controller for the purpose of providing high level of security.

Allowable Subject Matter

Claims 10, 22, 35, 45, 57 and 69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 10, 22, 45, 57 and 69, the prior arts fail to teach or fairly suggest one uniquely coded remote transmitter comprises a remote transceiver and a remote indicator associated therewith so that selection of said learned transmitter indicator switch causes said controller to cooperate with said remote indicator via said fixed and remote transceivers for indicating whether a new uniquely coded remote transmitter has been learned.

Regarding claim 35, the prior arts fail to teach or fairly suggest one indicator progressively indicates a passage of time since the learning mode has been exited.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matsuichiro Shimizu whose telephone number is 571-272-3066. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber, can be reached on 571-272-7308. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3068.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-8576).

Matuichiro Shimizu
May 27, 2006

WENDY R. GARBER
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